

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

SHERRY BOOKER,

Plaintiff

v.

CHEADLE LAW,

Defendant.

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No. 3:17-cv-01394

Chief Judge Crenshaw

STATEMENT OF UNCONTESTED FACTS

Defendant [“the Cheadle Law Firm”] has moved for Summary Judgment pursuant to Rule 56, F.R.C.P. In connection therewith, the Cheadle Law Firm contends that the following facts are uncontested:

1. On June 29, 2015, the Plaintiff, Sherry Booker, entered into a written agreement with an entity known as Harpeth Financial Services, LLC d/b/a Advance Financial 24/7 (the “Lender”) [Cheadle Aff., ¶2]. That agreement was titled “*Advance Financial Flex Loan Plan Disclosure and Account Agreement*” [Cheadle Aff., ¶2].

2. The Cheadle Law Firm has represented for some time the Lender [Cheadle Aff., ¶3].

3. The Lender retained the Cheadle Law Firm to collect the balance owed to it by the Plaintiff [Cheadle Aff., ¶4].

4. On June 12, 2017, the Cheadle Law Firm sent a demand letter to Plaintiff which stated (in its entirety), the following:

*Ms. Sherry Booker
583 Thomas Jefferson Circle
Madison, TN 37115*

*Re: Harpeth Financial Services, LLC dba Advance Financial
Amount of Obligation: \$4,067.83
Attorney Fees: \$1,355.94
Total: \$5,423.77
Client File Number: 10-5068262
Our File Number: 17004396*

Dear Ms. Booker:

The above obligation has been directed to my office for handling.

Please make your payment to the above address.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector. Unless you, within thirty days after receipt of this notice, dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by me. If you notify me in writing within the thirty-day period that the debt, or any portion thereof, is disputed, I will obtain verification of the debt or a copy of a judgment against you and a copy of such verification or judgment will be mailed to you by me. Upon your written request within the thirty-day period, I will provide you with the name and address of the original creditor, if different from the current creditor.

Thanking you for your cooperation in this matter, I am

Sincerely yours,

John R Cheadle, Jr.

[Cheadle Aff., ¶5]

5. On July 6, 2017, the Cheadle Law Firm filed suit against the Plaintiff in the General Sessions Court for Davidson County, in Case No. 17GC14504. The lawsuit was filed on a sworn account and sought to recover the unpaid loan amount of \$4,067.83 plus attorneys' fees of \$1,355.94 for a total claim of \$5,423.77. Davidson County Sheriff's Deputy, Danny Newman, served Plaintiff with the court papers on July 11, 2017 **[Cheadle Aff., ¶6]**.

6. The case was set on the Court's Docket for August 2, 2017 **[Cheadle Aff., ¶7]**.

7. Plaintiff appeared in Court on August 2nd and:
- Waived her right to a trial;
 - Agreed to entry of a Judgment; and
 - Agreed that the amount was the same amount that she was sued for (*i.e.*, \$5,423.67).

[Cheadle Aff., ¶8]

8. An agreement was reached whereby Plaintiff would pay the Judgment in monthly installments of \$100 on the 23rd day of each month, beginning August 23, 2017, with said payments to increase six months thereafter **[Cheadle Aff., ¶9]**.

9. In addition to her claim for statutory damages, the Plaintiff also seeks to recover actual damages including “mental anguish and emotional distress.” In connection with that claim, the Plaintiff does not have any medical or scientific evidence to support those damages **[Plaintiff’s Complaint, ¶9]**.

10. In addition to her claim for statutory damages, the Plaintiff also seeks to recover actual damages for personal “humiliation” and “embarrassment.” In connection with those claims, Plaintiff does not have any third party testimony to substantiate those claims **[Plaintiff’s Complaint, ¶9]**.

Respectfully submitted,

/s/ Phillip Byron Jones
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on this the 25th day of January, 2018, as follows:

<u>Addressee</u>	<u>Method(s) of Service</u>
Susan S. Lafferty, Esq. Lafferty Law Firm, P.C. 555 Marriott Drive, Suite 315 Nashville, TN 37214 susanl@laffertylawonline.com <i>Attorney for Plaintiff</i>	<input checked="" type="checkbox"/> Electronically via the Court's ECF System <input type="checkbox"/> U.S. Postal Service (First-Class, Postage Prepaid) <input type="checkbox"/> Email
Todd M. Friedman, Esq. Law Offices of Todd M. Friedman 21550 Oxnard Street, Suite 780 Woodland Hills, CA 91367 tfriedman@toddlfaw.com <i>Attorney for Plaintiff</i>	<input checked="" type="checkbox"/> Electronically via the Court's ECF System <input type="checkbox"/> U.S. Postal Service (First-Class, Postage Prepaid) <input type="checkbox"/> Email

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/s/ Phillip Byron Jones
Phillip Byron Jones, Esq.